

**DEPARTMENT OF STATE REVENUE**

**LETTER OF FINDINGS NUMBER: 00-0143P  
Income Tax  
Calendar Year Ended 1998**

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**ISSUE(S)**

**I. Tax Administration – Penalty**

**Authority:** IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

**II. Tax Administration – Interest**

**Authority:** IC 6-8-1-10-1

Taxpayer protests the interest assessed.

**STATEMENT OF FACTS**

Taxpayer protests the penalty assessed for the year ended December 31, 1998. Taxpayer filed its original return on October 15, 1999 with a payment of \$1,824.29 in tax due. The late payment generated a ten percent (10%) penalty and updated interest.

Taxpayer also protests the interest. Liability number 98-0216022 was issued on December 13, 1999 for a balance due of \$252.07 because the taxpayer failed to include the late payment penalty and updated interest on its return.

**I. Tax Administration – Penalty**

**DISCUSSION**

Taxpayer protests the penalty assessed because in early 1998, it was determined that the taxpayer would be included as a member of the 1998 parent and combined Indiana Affiliates Income Tax Return and was included in the estimate of Indiana corporate income tax for this group for the first quarter estimated tax payment due April 20, 1998. Taxpayer further states that just prior to the due date (October 15, 1999

extension) it was determined that the taxpayer did not meet the requirements to be included in the combined return because it had not registered to do business in Indiana. Therefore, taxpayer timely filed a separate 1998 Indiana corporation Income Tax Return.

Taxpayer further states that it believes that this regulation is not consistent with the statute, as well as generally accepted state income and franchise tax laws. The statute allowing for consolidated adjusted gross income tax returns does not require corporations to register. Also, most states do not rely on a taxpayer's election to qualify in a state when imposing taxes. Therefore, this regulation does not comply with generally accepted tax principles. Based upon the above facts, taxpayer respectfully requests that the penalty and interest asserted against it be waived.

The penalty was assessed because less than ninety percent (90%) of the expected tax due was paid by the original due date.

IC 6-8.1-6-1 clearly states that at least ninety percent (90%) of the tax that is reasonably expected to be due must be paid on or before the due date or penalties may be imposed for failure to pay the tax. One hundred percent (100%) of the tax due was paid after the due date, which incurs a late payment penalty.

Taxpayer has not provided reasonable cause to allow a waiver of the penalty. Ninety percent of the tax due was not paid by the due date of the return.

### **FINDING**

Taxpayer's protest is denied.

## **II. Tax Administration - Interest**

### **DISCUSSION**

Taxpayer protests the interest assessed on Liability 98-0216022.

The department has no authority to waive interest.

The tax payment in the amount of \$1,824 was not made until October 15, 1999.

### **FINDING**

Taxpayer's protest is denied.

### **CONCLUSION**

Taxpayer's protest is denied for Issues I. and II.